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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/838,175	04/20/2001	Toshiya Takahashi	2001-0478A	1562
513	7590	07/21/2005	EXAMINER	
WENDEROTH, LIND & PONACK, L.L.P. 2033 K STREET N. W. SUITE 800 WASHINGTON, DC 20006-1021			CHEVALIER, ROBERT	
		ART UNIT		PAPER NUMBER
				2616

DATE MAILED: 07/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/838,175	TAKAHASHI ET AL.	
	Examiner	Art Unit	
	Bob Chevalier	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 April 2001.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-13 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 20 April 2001 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/3/04;3/29/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 3-6, 8-13, are rejected under 35 U.S.C. 102(e) as being anticipated by Kawamura et al.

Kawamura et al discloses a video processing apparatus that shows all the limitations recited in claim 1 including the feature of receiving plural pieces of multiplexed digital data and the feature of outputting the plural pieces of digital data and the flag indicating whether the digital data are multiplexed or not (See Kawamura et al's column 13, line 58, to column 14, line 5, and Figure 17, where it is shown the capability of multiplexed flag indicating whether or not digital signals are being multiplexed or not), and the feature of the instruction signal indicating whether the plural pieces of digital data are to be multiplexed or not as specified in the present claims 1 would have been inherently present in the cited reference of Kawamura et al. Because, Kawamura et al already discloses that the provided digital signals may or may not be multiplexed. Applicant's attention is directed to Kawamura et al's column 13, lines 64-66, and column 18, lines 37-39, where it is disclosed that the validity of the multiplexing flag is determined.

With regard to claims 3-4, the feature of making access to the digital data at an arbitrary time or arbitrary position and outputting the same as specified thereof would be inherently present in the cited reference of Kawamura et al. Because, the reproducing apparatus of Kawamura et al includes disk storage medium that is randomly accessible. Therefore, the user could always access and outputting the digital data from the storage medium at any position as desired (See Kawamura et al's Figure 1, component 1).

With regard to claim 5, the feature of the audio and video data coding means for coding the audio and video data as specified thereof would have been inherently present in the cited reference of Kawamura et al. Because, Kawamura et al already discloses that the provided audio and video signals are in fact coded audio and video data. (See Kawamura et al's column 34, lines 18-19).

With regard to claim 6, the feature of demultiplexing the plural pieces of digital data when the flag indicates that the digital data are multiplexed and outputting the same as specified thereof is present in Kawamura et al. (See Kawamura et al's Figure 1, component 5, and the corresponding disclosure).

With regard to claims 8, and 11, the feature of audio and video decoding the digitized audio and video data and the demultiplexing feature recited thereof would be present in Kawamura et al. (See Kawamura et al's Figure 1, components 5, 8, and 11).

With regard to claims 9-13, the feature of the audio and video data coding means for coding the audio and video data as specified thereof would have been inherently present in the cited reference of Kawamura et al. Because, Kawamura et al already discloses that the provided audio and video signals are in fact coded audio and video

data. (See Kawamura et al's column 34, lines 18-19). And furthermore, the feature of having the multiplexed data and the flag recorded on the recording medium as specified thereof would have been present in Kawamura et al. Because, Kawamura et al already discloses a recording medium having recorded thereon coded audio and video data and a multiplexing flag indicating whether or not the digitized coded data are multiplexed. (See Kawamura et al's Figure 1, component 1, and the corresponding disclosure).

3. Claims 2 and 7, are rejected under 35 U.S.C. 102(e) as being anticipated by Suzuki et al.

Suzuki et al discloses a video processing apparatus that shows all the limitations recited in claims 2, and 7, including the feature of receiving plural pieces of digital data such as video and audio data and scene description information indicating playback time or playback position of the respective digital data (See Suzuki et al's Figure 4, and column 17, lines 6-39, and the feature of setting a scene description flag indicating whether there is a scene description or not and outputting the same as specified in the present claims 2, and 7. (See Suzuki et al's claim 2).

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 10-13 are rejected under 35 U.S.C. 101 because the claim is directed to a recording medium storing nonfunctional descriptive material.

Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are neither physical

"things" nor statutory processes. See, e.g. Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory) and merely claiming nonfunctional descriptive material stored in a computer-readable medium does not make it statutory. See MPEP 2106.IV.B.1.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bob Chevalier whose telephone number is 571-272-7374. The examiner can normally be reached on MM-F (9:00-6:30), second Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on 571-272-7950. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


ROBERT CHEVALIER
PRIMARY EXAMINER

B. Chevalier
July 9, 2005.